S.B. CIVIL WRIT PETITION NO.951/2004
(Hari Prasad Kabra vs. Ram Prasad)

Date :: 16.04.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr.Shambhoo Singh, for the petitioner.
Mrs.Deepika Vyas, for the respondents.

Heard learned counsel for the petitioner.

By way of filing present writ petition, the petitioner is challenging the order dated 02nd June, 1999 passed by the learned Civil Judge (Junior Division) Kuchaman City upon an application filed under Order 39 Rule 1 and 2 read with Section 151 CPC which is filed alongwith suit. The said application was rejected while observing that no prima facie case is made out and final relief can be granted at the time of final adjudication of the suit.

The said order was challenged by way of filing an appeal before the District Judge, Parbatsar but finally the said appeal was decided by Additional District Judge, Parbatsar on 06th October, 2003 whereby the order passed by the learned trial court dated 02nd June, 1999 was upheld.

It is submitted by learned counsel for the petitioner that both the courts below have committed an error while rejecting the application filed under Order 39 Rule 1 and 2 CPC and the appeal.

On the other hand, learned counsel for the respondents submits that no final relief can be granted by way of granting interim relief.

I do not find any reason to interfere with the contrary finding of both the courts while deciding the application under Order 39 Rule 1 and 2 read with Section 151 CPC. It is also required to be observed that no final relief can be granted at the time of deciding application for temporary injunction.

The petition is dismissed. However, learned trial court is directed to expedite trial of the suit.

[GOPAL KRISHAN VYAS],J.

A.K.Chouhan/-